

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

In the Matter of:

CLAIMANT

and

ALTA CALIFORNIA REGIONAL CENTER,

Service Agency

DDS No. CS0038743

OAH No. 2026071274

DECISION

Matthew S. Block, Administrative Law Judge, Office of Administrative Hearings, State of California, serving as a hearing officer, conducted a fair hearing in this matter on August 27, 2026, by videoconference from Sacramento, California.

Claimant was not present and was represented by her mother. The names of Claimant and her mother are omitted to protect their privacy and confidentiality.

The service agency, Alta California Regional Center (ACRC), was represented by Jordan Cody, Legal Specialist.

Evidence was received, the record closed, and the matter submitted for decision on August 27, 2026.

ISSUE

Is Claimant eligible for services from ACRC under the Lanterman Developmental Disabilities Services Act, Welfare and Institutions Code section 4500 et seq. (Lanterman Act) based on a disabling condition closely related to intellectual disability, or requiring treatment similar to that required for individuals with an intellectual disability?

FACTUAL FINDINGS

Jurisdictional Matters

1. ACRC provides funding for services and supports people with developmental disabilities under the Lanterman Act. To be eligible for services under the Lanterman Act, the developmental disability must be substantially disabling and have originated before the person turns 18 years old.

2. Claimant is 13 years old and resides with her adoptive parents and siblings in Antelope, California. On an unknown date, Claimant applied for ACRC services. ACRC completed a social assessment, reviewed available medical, educational, and developmental records, and referred Claimant for a neuropsychological evaluation as part of its multidisciplinary eligibility review process.

3. On June 26, 2026, ACRC issued a Notice of Action denying Claimant's application because she does not have autism, cerebral palsy, epilepsy, intellectual

disability, or a condition closely related to or requiring treatment similar to that required for individuals with an intellectual disability. Claimant appealed ACRC's decision on July 24, 2026. This hearing followed.

Background

4. Claimant was exposed to neurotoxicants in utero. Her biological parents have severe mental health issues and her biological father and brother have autism spectrum disorder (ASD). Claimant was removed from her biological parents when she was 14 months old and placed with her adoptive parents. She spoke single words at 15 months and phrases at 32 months. She started walking at 18 months.

5. When Claimant was 28 months old, she was evaluated by Katrina Cady, Psy. D., due to global developmental concerns and specific behaviors associated with ASD. Dr. Cady administered a developmental measure of cognitive functioning which indicated Claimant has borderline cognitive skills and resulted in a diagnosis of Global Developmental Delay. Dr. Cady also administered the Autism Diagnostic Observation Schedule – Second Edition (ADOS-2) and determined Claimant did not meet diagnostic criteria for ASD.

6. Claimant previously received services from ACRC through the Early Start Program. In February 2016, ACRC staff psychologist Jamie Milotz performed a psychological evaluation of Claimant, and determined her intellectual functioning fell within the low average range, with a full-scale intelligence quotient (IQ) of 82.

7. In February 2022, Claimant was evaluated by Dr. Ana Mercedes Flores, Neuropsychology Fellow, under the supervision of Dr. Christy Shaw, Pediatric Neuropsychologist. At that time, Claimant was diagnosed with generalized anxiety

disorder. She was also given a provisional diagnosis of attention deficit hyperactivity disorder (ADHD), predominantly inattentive presentation.

2023 Psychoeducational Evaluation

8. Claimant attended public school in the San Juan Unified School District until she was in the fourth grade. She received special education support and had an Individualized Education Plan (IEP). In November 2023, Claimant was referred for a psychoeducational evaluation to provide updated information for her IEP team to determine if any changes to the IEP were appropriate. She was in the third grade at the time.

9. School Psychologist Noelle Dumony, M.S., performed the evaluation over three days. Her evaluation procedures included a clinical interview with Claimant, her mother, and her teacher; a health and development questionnaire; a review of available health and school records; behavioral observations in the classroom and during the assessment; and a battery of psychological tests, including the Wechsler Intelligence Scale for Children – Fifth Edition (WISC-V), the Behavior Assessment System for Children (BASC-3), and the Multidimensional Anxiety Scale for Children – Second Edition (MASC-2). Following the evaluation, Ms. Dumony drafted a report of her findings, which was received in evidence at hearing.

10. Claimant's mother told Ms. Dumony that Claimant experiences severe anxiety when her routine changes unexpectedly or when she is in a noisy environment. At the time of the evaluation, she could read, spell, and express her thoughts orally. However, she was struggling with math, which was her least favorite subject. Claimant's teacher told Ms. Dumony Claimant's overall academic abilities were below average.

11. Ms. Dumony administered the WISC-V, which is comprised of subtests that measure an individual's cognitive abilities within five indexes: (1) verbal comprehension; (2) visual spatial; (3) fluid reasoning; (4) working memory; and (5) processing speed. Scores on each of the five indexes are then used to calculate a person's full-scale IQ.

12. Claimant's score in the verbal comprehension and processing speed indexes placed her in the average range. Her scores in fluid reasoning and processing speed placed her in the low average range. For reasons that are unclear, Ms. Dumony did not assign a score to the visual spatial index. Claimant's full-scale IQ was determined to be 89, which is in the low average range.

13. Ms. Dumony administered the BASC-3, which consists of highly standardized inventories surveying a range of clinical and adaptive behaviors in children and young adults. It relies upon data provided by adults who are very familiar with a child's daily functioning. Claimant's mother reported concerns in the clinically significant range regarding Claimant's anxiety, somatization, and withdrawal. She reported concerns in the at-risk range regarding Claimant's leadership abilities.

14. The MASC-2 is an assessment of anxiety dimensions in children and young adults between the ages of eight and 19 as observed and reported by their parents. Claimant's mother's observations as reported to Ms. Dumony suggested Claimant experiences "significant levels of overall anxiety for her age."

15. Ms. Dumony concluded her report with a recommendation that Claimant continue to receive special education services. She explained, in part:

[Claimant] has a formal medical diagnosis of Anxiety and the results of the current assessment revealed significant

issues associated with it. These behaviors are adversely impacting [Claimant's] abilities to learn, acquire new skills, and are impacting her alertness, strength, and vitality. [Claimant] meets the criteria for Other Health Impairment. Additionally, [Claimant] demonstrates a need for special education and related services that cannot be offered through other general or categorical services offered within the regular instruction program.

(Capitalization in original.)

Independent Study and Homeschool

16. Claimant was removed from public school and placed in independent study for the second half of her fourth-grade school year. She continued to struggle academically and was enrolled in homeschool through Visions in Education for fifth grade. She performed better academically but still struggled to meet the rigid timelines of the curriculum.

17. Claimant has been enrolled in independent homeschool for the last two years. Her schedule is more flexible, and her academic performance has improved. She is working at grade level in literacy and math. She is an excellent reader, but she struggles with reading comprehension and retention. She is more successful at responding to close-ended questions than open-ended ones.

Physical Ailments

18. Several years ago, Claimant started taking dancing lessons. Soon after, she began complaining of pain in her ankles. She was referred to a podiatrist, who

determined that one of her legs is longer than the other. Additionally, an MRI of her spine revealed bulging discs at L4-L5 and L5-S1. These conditions cause her to frequently be in pain. She is unable to walk long distances and uses a wheelchair when extensive walking is required.

Chromosomal Anomaly and Neuropsychological Evaluation

19. In 2025, Claimant was determined to have a heterozygous, pathogenic duplication of 605.14kb to 938.28kb within the region of chromosome 16p 11.2 (16p 11.2 duplication). Practically speaking, those with the 16p11.12. duplication have too much genetic material in a particular chromosome. Some individuals with the 16p 11.2 duplication experience difficulties with speech, behavior, and learning. Others are completely unaffected by the extra genetic material. Clinical features of the 16p 11.2 duplication include ASD, ADHD, anxiety, intellectual disability, motor delays, and schizophrenia.

20. After learning of the 16p 11.2 duplication, Claimant's primary care physician referred her for a neuropsychological evaluation "to provide diagnostic clarity." Neuropsychologist Malay Phoong, Ph.D., performed the evaluation over two days in March 2026. Her evaluation procedures included a clinical interview with Claimant and her mother; a review of available medical records and school records, and a battery of psychological tests, including the WISC-V, the Test of Memory Malingering (TOMM) the Rey-15 Item Test, the Adaptive Behavior Assessment System – Third Edition (ABAS-3) and the BASC-3. Following the evaluation, Dr. Phoong drafted a report of her findings, which was received in evidence at hearing.

21. Claimant's mother told Dr. Phoong that Claimant displays a normal range of facial expressions around people she is comfortable with. However, she tends to

mask what she is feeling. She is shy when meeting people for the first time and requires several encounters before interacting with others. She rarely initiates conversations, and she does not understand humor or sarcasm.

22. Dr. Phoong noted Claimant presented on the first day of testing “as a friendly 13-year-old female who appeared her chronological age.” Initially, she spoke slowly. Dr. Phoong attributed this to anxiety, because Claimant self-reported her anxiety level to be five on a scale of one to 10. As the evaluation progressed, Claimant appeared to become more comfortable, and she spoke clearly and articulately at a normal volume, rate, and tone.

23. Claimant’s social engagement and behavioral presentation were variable throughout the first day of testing. She told Dr. Phoong she had been watching YouTube videos about people with ASD and that she believed she was on the autism spectrum. She explained that she feels uncomfortable in social situations and is bothered by noises. She also explained that she has few opportunities to socialize with others because she is homeschooled.

24. Claimant told Dr. Phoong that she is afraid to go outside because she feels like “something bad is going to happen.” She also spoke in great detail about her physical ailments. Claimant avoided eye contact with Dr. Phoong throughout the interview and communicated in an exaggerated style. She was cooperative but exhibited variable engagement on the tasks presented.

25. Dr. Phoong administered the Rey-15 Item Test, which is a measure of performance validity with low sensitivity to invalid effort. Most people who take the test pass, and it is typically only those with severe impairment, or those with obvious invalid performance, fail. Claimant failed the Rey-15 Item Test. However, Dr. Phoong

also administered the TOMM, which is another performance validity measure, and Claimant passed. In her report, Dr. Phoong discussed the inconsistent outcomes on the two performance validity tests, stating, in part:

Due to the inconsistency of performance, scores should be interpreted with a high degree of caution. Additionally, [Claimant] exhibited highly inconsistent behavioral presentation across environments. A higher degree of symptoms were observed in the testing environment while virtually no symptoms were observed outside the testing environment. These inconsistencies in behavioral pattern as well as the inconsistency in performance on validity effort testing suggests that obtained scores cannot be interpreted with a high degree of confidence.

26. Based on the inconsistent outcomes on the Rey-15 Item Test and the TOMM, Dr. Phoong had Claimant return for a second day of testing. On that day, they discussed Claimant's performance and the effort she put forth on the first day of testing. Claimant told Dr. Phoong she was much less anxious on the second day and rated her anxiety level as one on a scale of one to 10. Dr. Phoong noted the following in her report:

Her behavioral presentation was significantly discrepant from her behavioral presentation the first day of testing. [Claimant] was chatty and engaged in reciprocal conversation. She exhibited appropriate eye contact, a wide range of facial expressions that were appropriate to context, and coordinated verbal and nonverbal communicative

behaviors for effective communication throughout the session, both in the exam room and during transitions. She picked up on humor and laughed at appropriate moments throughout the session. No unusual repetitive or stereotyped behaviors were observed other than [Claimant] occasionally twirling or fidgeting with her pencil.

27. Dr. Phoong administered the WISC-V. Claimant's scores on the verbal comprehension and fluid reasoning indexes placed her in the low average range, and her score on the visual spatial index placed her in the extremely low range. Her scores on the working memory and processing indexes placed her in the average range. Claimant's full-scale IQ was determined to be 81, which is in the low average range.

28. Dr. Phoong administered the BASC-3. Claimant's parent ratings indicated clinically significant concerns in the areas of anxiety, somatization, withdrawal, and internalized emotional symptoms. At-risk concerns were reported in the areas of atypicality, adaptability, leadership, and functional communication. Claimant fell within the average range in the areas of hyperactivity, aggression, conduct and attention problems, social skills, and activities of daily living. Claimant completed the Adolescent Personality Assessment Inventory for the BASC-3, which was "marked by an unusual degree of concern about her physical functioning and health matters."

29. Dr. Phoong administered the ABAS-3, which evaluates behaviors displayed in the home, school, and community environments as reported by Claimant's mother. Claimant scored in the below average range on the ABAS-3.

30. Dr. Phoong also spoke via telephone with Claimant's prior dance instructor. She told Dr. Phoong that Claimant had emotional "highs and lows" in the

class. She would be happy upon arrival but would subsequently “shut down” with no obvious trigger. There were times she preferred to be alone, but other times when she would be “super social.” She did not have a “filter” when speaking to other children, and she always seemed to be preoccupied with her physical ailments.

31. Dr. Phoong ultimately diagnosed Claimant with four conditions, one of which is the previously diagnosed 16p 11.2 duplication. She also diagnosed Claimant with a neurodevelopmental disorder associated with in utero exposure to toxicants. In her report, Dr. Phoong explained, in part:

Her ability to process and manipulate visual and spatial information is significantly below age expectations, and she demonstrated consistently lower scores on visual and learning and memory measures than verbal learning and memory. This discrepant pattern was consistent with prior neuropsychological evaluation in 2021 that first identified weaknesses in visual-spatial and visual-motor integration, findings that are often observed in children and adolescents who have been exposed in utero to toxicants. This discrepant pattern of visual-spatial weakness in the context of broadly average verbal skills are conceptualized as a Nonverbal Learning Disability.

32. Dr. Phoong diagnosed Claimant with a generalized anxiety disorder. She described the impact of anxiety in Claimant’s life as follows:

When [Claimant’s] anxiety is poorly regulated, she struggles to complete even the most basic tasks, despite

demonstrating intact functioning on other related tasks. She struggles to interact in social situations appropriately, avoids eye contact, and hyper-fixates on irrelevant environmental stimuli, behaviors that may draw concern for [ASD]. These behaviors are similar to described situations in which [Claimant] "shuts down," stops communicating, and no longer participates in everyday activities such as dance or socialization. In contrast, when [Claimant's] anxiety is well regulated or absent, she is highly functional and her social engagement is appropriate.

33. Although Dr. Phoong acknowledged Claimant's anxiety manifests itself in ways that draw concern for ASD, she ultimately concluded an ASD diagnosis was not appropriate. She explained her conclusion by referring to the second day of testing, writing, in part:

[Claimant] exhibited appropriate eye contact, a wide range of facial expressions that were appropriate to context, and coordinated verbal and nonverbal communicative behaviors for effective communication. She picked up on humor and no unusual repetitive or stereotyped behaviors were observed. The patterns of behaviors are not consistent with [ASD], as [ASD] typically observes *pervasive* impairments in social communication and interaction. Further, parent ratings indicated average range social skills and social adaptive functioning, and [Claimant] demonstrated age appropriate social cognition.

(Emphasis in original.)

34. Lastly, Dr. Phoong diagnosed Claimant with a somatic symptom disorder, which she defined as “a condition in which an individual experiences somatic symptoms that are distressing or result in significant disruption of daily functioning.” She reasoned, in part:

[Claimant] has strong beliefs that she is disabled by her physical symptoms causing significant impairment or restriction in her daily living, and that her medical condition is unlikely to be treated successfully (e.g. belief that she is a “medical mystery” and “none of the doctors can figure out why”). It is important to acknowledge that [Claimant] has genuine medical issues, including small disc bulges at L4-L5 and L5-S1 and leg length discrepancy, conditions that likely cause significant pain. However, it is her maladaptive psychological beliefs about her medical conditions that result in significant stress exceeding what would be expected and likely magnified the physical pain she experiences.

Testimony of Carl Modeste, Ph.D.

35. Carl Modeste, Ph.D., works as a staff psychologist for ACRC. He consulted with another ACRC psychologist on Claimant’s eligibility for regional center services.

36. Dr. Modeste testified at hearing. He explained that regional center service eligibility is limited to those who have been diagnosed with autism, cerebral palsy, epilepsy, and intellectual disability. However, there is a “fifth category,” which is

a condition closely related to intellectual disability or requiring treatment similar to that required for a person with an intellectual disability.

37. In making an eligibility determination under the fifth category, clinicians rely heavily on full-scale IQ. An individual with an intellectual disability would be expected to have a full-scale IQ below 70. When an individual's IQ falls between 70 and 79, it is indicative of borderline intellectual functioning and clinicians will look to their history to see if the IQ has always been in that range or if it has changed over time. If prior evaluations consistently resulted in IQ determinations that were much lower, it is more likely that the higher score is an anomaly.

38. ACRC reviewed a significant number of records in assessing Claimant's eligibility for services in this case, including Dr. Milotz's report, the 2023 psychoeducational evaluation report, and Dr. Phoong's neuropsychological evaluation report. In this case, Claimant's full-scale IQ scores were consistently 80 or above. Although the scores place Claimant in the low average to average range, they are not indicative of intellectual disability or a condition closely related to an intellectual disability.

39. ACRC considered the significance of Claimant's 16p 11.2 duplication in assessing her eligibility for services under the fifth category. Dr. Modeste explained that some people who have the 16p 11.2 duplication also have an intellectual disability or a closely related condition as a result. Others may have obsessive compulsive disorder, ADHD, or speech and language disorders. However, every case is different, and some people do not develop any of those conditions. In determining whether the duplication rises to the level of a condition closely related to intellectual disability, clinicians will primarily rely on an individual's full-scale IQ over time.

Testimony of Peter Himber, M.D.

40. Peter Himber, M.D., is a staff physician at ACRC. Before that, he worked as a staff physician and medical director at the Orange County Regional Center for 25 years. He has personally reviewed over 10,000 applications for regional center eligibility throughout his career.

41. Dr. Himber is familiar with Claimant's 16p 11.2 duplication diagnosis and what it means. He explained that all people are comprised of genetic material that is passed from parents to children. Everything that makes human beings unique is based on genes. Chromosomes are structures within the body that carry genetic information from cell to cell. By analogy, he likened each chromosome in the body to a book, and each individual page within the book to a gene. In the case of 16p 11.2 duplication, a couple of the pages are duplicative of each other.

42. Dr. Himber explained that some individuals become eligible for regional center services under the fifth category by virtue of a genetic disorder. However, he cautioned that it is not just a genetic disorder, but its effect on the individual that is determinative. Claimant's condition features what is commonly referred to in the medical field as variable penetrance, which means that the exact same condition can affect different people in completely different ways. There are some individuals with the 16p 11.2 duplication that have severe cognitive impairment and others that have little to no impairment.

43. Dr. Himber acknowledged that some individuals with the 16p 11.2 duplication may have ASD or suffer from seizures because of the condition. Provided other requisite criteria are met, those individuals would be eligible for regional center services. However, Dr. Himber cautioned against assuming an individual with the

duplication will automatically have ASD, or that if they do, it will be substantially disabling. Each applicant must be reviewed on a case-by-case basis.

Claimant's Evidence

44. Claimant's mother testified at hearing. She explained that Claimant started receiving special education services when she was one year old, including speech occupational, physical, and feeding therapies. She attended preschool but struggled with changes in routine and being around unfamiliar people, so her parents decided to keep her home and work with a therapist. She participated in 20 sessions of neurofeedback therapy to train her brain to self-regulate, improve focus, and reduce anxiety. During that time, Claimant's brother was diagnosed with autism and began in-home applied behavior analysis therapy, which Claimant also benefitted from.

45. Claimant returned to preschool on a modified, shortened schedule to focus on socialization and self-advocacy. However, she was unable to do so without her mother in attendance. They gradually worked to increase her attendance at preschool.

46. Claimant initially did well after transitioning to kindergarten. However, after having a substitute teacher on consecutive Fridays she no longer wanted to go to school. She had severe separation anxiety, broke out into hives, and hardly ate. Her primary care physician prescribed Zyrtec for the hives and Zoloft to help with her anxiety. However, she continued to struggle, and her anxiety worsened after learning that her class would have a long-term substitute teacher for the remainder of the school year. She also started worrying about moving to the first grade and saw a counselor to help process her emotions.

47. In first grade, Claimant's parents started sending her to school with noise-cancelling headphones and chewy necklaces to self-soothe. She began refusing to go to school and would grab her mother and refuse to let her leave when she walked Claimant to class. She would not eat lunch at school because she was unable to communicate what she wanted, so her parents started packing snacks in her backpack and the school allowed her to eat in the office.

48. Claimant's anxiety worsened as the school year wore on. There were times she would curl up on the floor of the school office or her classroom and become nonresponsive. Her parents began sending her to school with a weighted stuff animal with a calming lavender scent. When her school was closed due to the COVID-19 pandemic, Claimant's anxiety improved and she discontinued counseling.

49. Claimant started second grade in distance learning. She attended class but kept the camera on her computer turned off and would shut down if called upon. An IEP was created and she began receiving specialized instruction in math, mental health services, and occupational therapy for handwriting. Once in-person instruction resumed, Claimant's anxiety worsened again. She began having panic attacks at night and had to sleep in the same room as her parents. She struggled greatly with emotional regulation, executive functioning, and problem-solving skills.

50. Claimant was provided with multiple accommodations in school pursuant to her IEP. However, by the middle of fourth grade, she was spending more time outside of her classroom than in it, so her parents decided to transition to independent learning. When the school district discontinued independent learning, they transitioned to a charter homeschool, Visions in Education. Claimant was able to remain on an IEP with specialized academic instruction and occupational therapy.

Nonetheless, she still struggled with the rigorous curriculum and needed significant additional support from her mother.

51. Claimant does not have many friends and is not very close to her siblings, although she shows great affection for her three-year-old nephew. She is shy when meeting new people and requires multiple encounters before she begins to engage with others. She rarely initiates conversations and she does not understand humor or sarcasm. She is literal and concrete in her understanding of language. Claimant is incredibly sensitive to changes in routine and noise.

52. On June 15, 2026, Claimant was evaluated by Pediatric Neuropsychologist Alexander Fay, M.D., at the Benioff Children's Hospital in San Francisco for follow-up regarding her 16p 11.2 duplication. Treatment notes from the encounter were received in evidence at hearing, in which Dr. Fay noted, in part:

In terms of her genetics, her duplication of 16p 11 [*sic*] can cause a wide range of phenotypes, including a very mild phenotype up to severe autism, schizophrenia, and developmental delays. This genetic may account for her previous motor delays and learning disorder, although so may have her prenatal drug exposure.

53. Claimant's mother submitted a letter from her daughter-in-law, who has a bachelor's degree in early childhood and adolescent development and is familiar with Claimant. In the letter, which is dated August 21, 2026, she wrote, in part:

[Claimant] suffers from extreme amounts of developmental disruptions and sensory processing disorders. In typical adolescent development, public spaces serve as critical

environments for social mapping, peer integration, and situational awareness. However, [Claimant] experiences severe anxiety and profound sensory overload, forcing a departure from these typical milestones. In large, loud crowds, her nervous system defaults to a sustained fight or flight response. While she does utilize the use of noise cancelling headphones, which provides as a regulatory tool to prevent panic, it inherently creates a physical and psychological barrier to the outside world. Unfortunately, since this is a necessity, it is also creating and inducing extreme isolation, actively alienating her from the casual, spontaneous peer interactions that are foundational to typical adolescent social growth.

54. Claimant's mother also submitted a letter from Pamela Hedrick, who was Claimant's social worker during the adoption process. In that letter, which is dated March 22, 2016, Ms. Hedrick wrote, in part:

The foster parents' [*sic*] have been able to integrate therapies and make accommodations to daily routines and the physical environment. Yet with all of this, [Claimant] continues to need support and assistance throughout each day in order to succeed. [Claimant] continues to show impairment in her cognitive and social functioning. She needs regular prompting, guidance, and instruction throughout each day in order to function. [Claimant] is still unable to repeat her skills when any changes are made and

she has not been able to function at that same level in any other environments. [Claimant] continues to show a gap in her ability to learn new material, retain information and independently integrate it into her daily functioning. Although she has made progress, her independent functioning is limited and is most evident in the areas of receptive and expressive language, her learning and her self-help skills.

I have seen progress, yet not as much as would be expected given the therapeutic home in which she lives. She has demonstrated an ongoing inability to adjust to new situations. [Claimant] will need ongoing supports and services in order to learn to function independently and would therefore benefit greatly from continued supportive services.

Analysis

55. Claimant bears the burden of proving she is eligible for regional center services by a preponderance of the evidence. To be eligible for regional center services under the Lanterman Act, a person must have a developmental disability that is substantially debilitating and which originated before the person reaches 18 years of age. For eligibility purposes, developmental disabilities include cerebral palsy, epilepsy, autism, intellectual disability, or a condition closely related to or requiring treatment similar to that required for individuals with an intellectual disability.

56. Claimant's mother contends that Claimant is eligible for regional center services under the fifth category. Specifically, she contends that due to Claimant's exposure to toxicants in utero and her 16p 11.2 duplication, she has a condition closely related to an intellectual disability, or requiring treatment similar to the treatment required for individuals with an intellectual disability.

57. The most recent neuropsychological evaluation resulted in diagnoses of neurodevelopmental disorder associated with in utero exposure to toxicants, generalized anxiety disorder, and somatic symptom disorder, in addition to the previously diagnosed 16p 11.2 duplication. One or all diagnoses could render Claimant eligible for services if they resulted in a condition closely related to an intellectual disability or requiring treatment similar to the treatment required for individuals with an intellectual disability. However, the evidence presented at hearing does not demonstrate that any of them do.

58. Claimant has been evaluated on multiple occasions over the last 10 years, including twice within the last three years. On each occasion, Claimant's full-scale IQ was determined to be above the range expected in individuals with intellectual disability. Dr. Modeste persuasively explained that the consistent results, although in the low average range, demonstrate that none of the scores are an anomaly. Although individuals with the 16p 11.2 duplication can have autism or epilepsy, Claimant has never been diagnosed with either. In fact, Dr. Milotz affirmatively ruled out an ASD diagnosis after administering the ADOS-2.

59. Claimant suffers from extreme anxiety, the effects of which are evidently debilitating. She has difficulty making and maintaining friendships, and she struggles to perform academically at grade level in a traditional school environment. Her parents are to be commended for their support and the innovative measures they have taken

to help Claimant combat her anxiety. However, despite needing continuing support, she is now performing academically at grade level with a more flexible homeschool schedule.

60. When all the evidence is considered, Claimant did not establish that she has a condition closely related to intellectual disability or requiring treatment similar to the treatment required for individuals with an intellectual disability. Consequently, her appeal must be denied at this time. However, Claimant is encouraged to re-apply for services in the future if additional relevant information becomes available.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. In an administrative hearing, the burden of proof is on the party seeking government benefits or services. (See, e.g., *Lindsay v. San Diego County Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) In this case, Claimant bears the burden of proving, by a preponderance of the evidence, that she is eligible for services from ACRC under the Lanterman Act. (Evid. Code, § 115.)

Applicable Law

CARE FOR THE DEVELOPMENTALLY DISABLED

2. Under the Lanterman Act, the State of California accepts responsibility for persons with developmental disabilities and pays for the majority of the "treatment and habilitation services and supports" to enable such persons to live "in the least restrictive environment." (Welf. & Inst. Code, § 4502, subd. (b)(1).) The State Department of Developmental Services is charged with implementing the Lanterman

Act and is authorized to contract with regional centers to provide the developmentally disabled access to the services and supports needed. (Welf. & Inst. Code, § 4620, subd. (a); *Williams v. State of Cal.* (9th Cir. 2014) 764 F.3d 1002, 1004.)

ELIGIBILITY FOR REGIONAL CENTER SERVICES

3. Eligibility for regional center services and supports is dependent on the person having a "developmental disability" that: (1) originated before she reached 18 years of age; (2) is likely to continue indefinitely; and (3) constitutes a substantial disability. (Welf. & Inst. Code, § 4512, subd. (a)(1).) Under the Lanterman Act, "developmental disability" includes intellectual disability, cerebral palsy, epilepsy, autism, and disabling conditions found to be closely related to or require treatment similar to that required for individuals with an intellectual disability. (*Ibid.*)

4. Welfare and Institutions Code section 4512, subdivision (l)(1), states:

"Substantial disability" means the existence of significant functional limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person:

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

5. Any person believed to have a developmental disability shall be eligible for initial intake and assessment services in the regional centers. (Welf. & Inst. Code, § 4642, subd. (a)(1).) "If assessment is needed, the assessment shall be performed within 120 days following initial intake." (Welf. & Inst. Code, § 4642, subd. (a).)

6. Welfare and Institutions Code section 4710, subdivision (e), provides:

If a person requests regional center services and is found to be ineligible for these services, the regional center shall give adequate notice pursuant to Section 4701. Within five business days of the time limits set forth in Sections 4642 and 4643, notice shall be sent to the applicant and, if appropriate, the authorized representative, by standard mail, certified mail, or email at their preference as indicated at the time of intake.

APPEAL PROCESS

7. Welfare and Institutions Code section 4710.5, subdivision (a), provides:

Any applicant for or recipient of service, or authorized representative of the applicant or recipient, who is dissatisfied with a decision or action of the regional center or state-operated facility under this division shall, upon filing a request within 60 days after notification of the

decision or action, be afforded an opportunity for an informal meeting, a mediation, and a fair hearing.

Disposition

8. Based on the Factual Findings and Legal Conclusions as a whole, Claimant did not meet her burden of establishing by a preponderance of evidence that she has a substantially disabling condition closely related to intellectual disability or requiring treatment similar to that required for individuals with an intellectual disability. Consequently, her appeal must be denied at this time.

ORDER

Claimant's appeal is DENIED.

DATE: September 9, 2026

MATTHEW S. BLOCK
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision. Each party is bound by this decision. Either party may request a reconsideration pursuant to subdivision (b) of Welfare and Institutions Code section 4713 within 15 days of receiving this decision, or appeal this decision to a court of competent jurisdiction within 180 days of receiving the final decision.